IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.6.2006

C O R A M :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

and

THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

CONTEMPT APPEAL NOS.5 TO 8 OF 1999

Cont.A.5/99

B.K.K.Pillai ... Appellant

-vs-

1. D.Muthukrishnan

2. The Superintendent of Police,
   Adambakkam Police Station,
   Adambakkam, Chennai-88.

3. The Inspector of Police,
   Adambakkam Police Station,
   Adambakkam, Chennai.

4. Simad Deivasigamani Ponnusambala
   Desikar of Kundrakudi,
   Thiruvannamalai Adheenam,
   Kundrakudi Post,
   Thirupattoor Taluk,
   Sivagangai District.

5. E.Aranganathan

6. Deepam Agency,
   rep. by its Partners,
   1. Chidambaram,
   2. Mani Chellappa and
   3. Ramanathan ... Respondents

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Cont.A.6/99

E.Aranganathan ... Appellant

-vs-

1. Muthukrishnan

2. The Superintendent of Police,
   St.Thomas Mount,
   Chennai-600 016.

3. The Inspector of Police,
   Adambakkam Police Station,
   Chennai-88.

4. Srimad Deivasigamani Ponnambala
   Desikar of Kundrakudi,
   Thiruvannamalai Adheenam,
   Kundrakudi Post,
   Thirupattoor Taluk,
   Sivagangai District.

5. B.K.K.Pillai

6. Deepam Agency,
   rep. by its Partners,
   Chidambaram, Mani Chellappa and
   Ramanathan ... Respondents

Cont.A.7/99

Deepam Agency,
rep. by its Partners,
Chidambaram and Mani Chellappa ... Appellant

-vs-

D.Muthukrishnan ... Respondent

Cont.A.8/99

Srimad Deivasigamani Ponnambala
Desikar of Kundrakudi,
Thiruvannamalai Adheenam,
Kundrakudi Post,
Sivagangai District. ... Appellant

-vs-

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1. D.Muthukrishnan

2. The Superintendent of Police,
   St.Thomas Mount,
   Chennai-16.

3. The Inspector of Police,
   Adambakkam Police Station,
   Chennai-88.

4. E.Aranganathan

5. B.K.K.Pillai

6. Deepam Agency,
   rep. by its Partners,
   1. Chidambaram, 2. Mani
   Chellappa and 3. Ramanathan ... Respondents

* * * * *

| | | |
|---|---|---|
| Mr.G.Ravishankar | :: | For Appellant in Cont.A.5/99 and for 5th Respondent in Cont.A.Nos.6 and 8/99 |
| Mr.V.Alagirisami,SC for M/s.Trichy R.Thiagarajan | :: | For Appellant in Cont.A.6/99 and for 5th and 4th respondent in Cont.A.Nos.5 and 8/99 |
| Mr.A.Venkatesan | :: | For Appellant in Cont.A.7/99 and for 6th respondent in Cont.A.Nos.5, 6 and 8/99 |
| Mr.G.R.Ravichandran | :: | For Appellant in Cont.A.8/99 and for 4th respondent in Cont.A.Nos.5 and 6/99 |
| Mr.N.Vasudevan | :: | For R-1 in all the cases. |
| No appearance | :: | For RR2 and 3 |

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O R D E R

Heard all the parties.

2. These appeals are directed against the order of the learned single Judge dated 3.3.1999 in Contempt Petition No.530 of 1997 preferred by the first respondent in all the above appeals, whereunder, the first respondent initiated contempt proceedings against the appellants in these appeals for the alleged wilful disobedience of the orders passed in Crl.O.P.No.8582 of 1992 dated 17.8.92.

3.1. Concededly, a civil suit, viz., O.S.No.2125 of 1991 filed by the first respondent herein, is pending before the learned District Munsif, Poonamallee, for an injunction restraining the appellants herein from interfering with the first respondent's peaceful possession and enjoyment of the suit property to an extent of 1.42 acres mentioned thereunder and pending the said suit, ad-interim injunction was also granted in I.A.No.2842 of 1991 and it was also made absolute on 14.9.92.

3.2. Pending the above said suit, the first respondent herein moved this Court by filing Crl.O.P.No.13874 of 1991 seeking a direction to the Inspector of Police, Adambakkam Police Station, Adambakkam, to provide police protection to him. In the said petition, Justice.Pratap Singh, by an order dated 6.4.92, finding that already a petition seeking for police aid is pending before the trial Court, observed that the trial Court shall decide it on merits and accordingly, dismissed the petition, as a direction as prayed for in the said petition could not be given.

3.3. In spite of the above order dated 6.4.92, the first respondent herein again moved Crl.O.P.No.6005 of 1992 before this Court with a similar prayer and the said petition was dismissed on 8.6.92 by the Hon'ble Justice Arumugam, permitting the first respondent to move the District Munsif Court at Poonamallee.

3.4. Within two months thereafter, the first respondent again moved this Court by filing Crl.O.P.No.8582 of 1992 for a similar direction to the Superintendent of Police, Chengalpattu M.G.R. District and the Inspector of Police, Adambakkam Police Station, with a further prayer to implement the order of injunction granted in I.A.No.2842 of 1991 in O.S.No.2125 of 1991 against the obstructors. Justice Swamidurai, by an order dated 17.8.1992, construing the observation of Justice Pratap Singh made in the order dated 6.4.92 in Crl.O.P.No.13874 of 1991 as a direction and finding that the police failed to provide police protection to the

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first respondent, allowed the said petition by directing the police to give police protection. The learned Judge had also directed the learned District Munsif, Poonamallee, to dispose of such applications at the earliest without keeping it pending.

3.5. Complaining that the said order dated 17.8.92 was disobeyed by the appellants herein and by the second and third respondents, viz., the Superintendent of Police and the Inspector of Police, the first respondent moved Contempt Application No.530 of 1997, whereunder the learned single Judge of this Court, by order dated 3.3.99, directed the appellants herein to vacate the property, viz., 1 acre 42 cents referred to in Crl.O.P.No.13874 of 1991 and hand over the possession to the petitioner therein, who is the first respondent herein, with a further direction to dismantle the entire structure, within 15 days from the date of the order, viz., 3.3.99 and if they failed to do so, giving further directions to respondents 1 and 2 therein, namely, the Superintendent of Police and the Inspector of Police, to see that the possession of the property is restored to its original position and if not, the respondents therein shall be liable to be punished under Contempt of Courts Act.

3.6. In the same order dated 3.3.99 of the learned single Judge made in the Contempt Petition, it is also observed that pendency of applications filed under Order 39 Rule 2A of C.P.C. for the alleged violation of the order of interim injunction, would not be a bar for entertaining the present contempt petition. On the other hand, Hon'ble Justice Swamidurai, in the order dated 17.8.92, finding that the learned District Munsif, Poonamallee, has not disposed of the application already filed for police protection, observed that the learned District Munsif shall not keep such applications in future without passing any orders.

3.6. It is, therefore, apparent on the face of record that in the order dated 17.8.92, there was a direction to dispose of the application made under Order 39 Rule 2A, on the other hand, in the order dated 3.3.99 made in the contempt petition, the learned single Judge has observed that the pendency of such application will not be a bar to initiate contempt proceedings.

4. In view of the contradictions, viz., 1) the direction to the learned District Munsif, Poonamallee, by order dated 17.8.92 to dispose of the application filed for police protection, and 2) the direction to the police by order dated 3.3.99 to give protection to the first respondent, we are of the considered opinion that the finding of the learned single Judge that the refusal of the police to give protection is intentional and the further directions as contained in para 30 of the order, viz., i) to hand over the possession of the property and ii) to demolish the same within a

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time frame, would not sustain, as the same shall be subject to the finality to be reached in the proceedings pending before the learned District Munsif, Poonamallee.

5. Therefore, on going through the orders referred to above, we do not see any wilful disobedience on the part of the appellants to hold that they have committed contempt of the order dated 17.8.92 made in Crl.O.P.No.8582 of 1992 and accordingly, we set aside the order of the learned single Judge dated 3.3.99 and allow the appeals. Since, we are of the view that the first respondent has moved this Court on several occasions, viz., in the months of April, June and August, 1992, which is nothing but an abuse of process of Court, we are inclined to award costs at the rate of Rs.1,000/- in each case.

sra

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. THE DISTRICT MUNSIF,
POONAMALLEE.

2. THE SUB ASSISTANT REGISTRAR,
ORIGINAL SIDE, HIGH COURT COURT, MADRAS.

3. THE SUB-ASSISTANT REGISTRAR,
JUDICIAL/AF SECTION, HIGH COURT, MADRAS.

4. THE SECTION OFFICER,
CRIMINAL SECTION, HIGH COURT, MADRAS.

5. THE SECTION OFFICER,
NAZIR SECTION, HIGH COURT, MADRAS.

+ 2 ccs to Mr.A. Venkatesan, Advocate SR No.26635

+ 1 cc to M/s. Trichy R. Thiagarajan, Advocate SR No.26835

MAB(CO)
SR/4.7.2006



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